

# **Exhibit I**

**NOTICE OF PENDENCY OF FLSA LAWSUIT**

From: The Law Office of Borrelli & Associates, PLLC

To: Current and former employees of who were employed by April 26, 2010 as non-managerial employees.

Re: Fair Labor Standards Act Lawsuit filed against

The purpose of this Notice is to inform you of the existence of a collective action lawsuit against **S & D FRUITS & VEGETABLES INC., SAL'S FRUIT, VEGETABLE AND GROCERY INC., and SAMUEL OLEA**, ("Defendants"), in which you potentially are "similarly situated" to the named Plaintiffs, to advise you how your rights may be affected by this suit, and to instruct you on how you may participate in this suit.

**DESCRIPTION OF THE LAWSUIT**

The lawsuit claims that Defendants violated the Federal Fair Labor Standards Act ("FLSA") and the New York Labor Laws by failing to adequately compensate their employees for hours worked and for failing to pay the overtime rate for hours worked in excess of 40 hours per week.

The lawsuit seeks to have Defendants pay current and former employees for unpaid wages and overtime pay, as well as liquidated damages and attorney's fees and costs.

Defendants deny the claims in this lawsuit and deny that they are liable to workers for any of the back pay, damages, costs or attorney's fees sought.

**1. WHO IS ELIGIBLE TO JOIN THE LAWSUIT?**

If you were employed at any of S & D FRUITS & VEGETABLES INC., SAL'S FRUIT, VEGETABLE AND GROCERY INC., and SAMUEL OLEA, locations as a general (non-managerial) employee since April 26, 2010 you are eligible to join the lawsuit.

**2. HOW DO I JOIN THE LAWSUIT?**

If you fit the definition above, you may join this case (that is, you may "opt in") by completing and mailing the attached "Consent to Become Party Plaintiff" form to:

Clerk of the Court  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

The Completed form must be returned to the Court by \_\_\_\_\_. If you fail to return the Consent to Become Party Plaintiff form to the Court on or before the above deadline, you may not be able to participate in the lawsuit.

You have the right to allow Borrelli & Associates PLLC to represent your interests in this lawsuit, or you can choose your own counsel.

### 3. TO JOIN THE LAWSUIT AND NOT BE REPRESENTED BY PLAINTIFFS' COUNSEL

You have the right to consult with an attorney about this matter. If you wish to be represented by other counsel, you may retain another attorney, but you will be responsible for paying that attorney.

If you do choose to retain a separate attorney, your attorney must file an "opt-in" consent form by \_\_\_\_\_.

### 4. EFFECT OF JOINING THIS SUIT

If you choose to join this case, you will be bound by the Judgment, whether it is favorable or unfavorable.

The attorney for the Plaintiffs is being paid on a contingency fee basis, which means that if there is no recovery there will be no attorney's fee. If there is a recovery, the attorney for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class.

If you sign and return the Consent to Become Party Plaintiff form attached to this Notice, you are agreeing to designate the class representatives as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorney's fees and costs, and all other matters pertaining to this lawsuit.

### 5. TO STAY OUT OF THE LAWSUIT

If you do not wish to be part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case in any way and will not be bound by or affected by the result (whether favorable or unfavorable). Your decision not to join this case will not affect your right to bring a similar case on your own at a future.

### 6. NO RELATIATION PERMITTED

Federal law prohibits defendants **S & D FRUITS & VEGETABLES INC., SAL'S FRUIT, VEGETABLE AND GROCERY INC., and SAMUEL OLEA**, from discharging or in any other manner discriminating against you because you "opt-in" to

this case, or have in any other way exercised your rights under the Fair Labor Standards Act.

7. COUNSEL

Plaintiffs' counsel is Michael J. Borrelli, The Law Office of Borrelli & Associates, PLLC, 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021. Phone: (516) 248-5550; Fax: (516) 248-6027; Email: [mjb@employmentlawyernewyork.com](mailto:mjb@employmentlawyernewyork.com); Ayanna T. Blake, The Law Office of Borrelli & Associates, PLLC, 1010 Northern Boulevard, Suite 328, Great Neck, New York 11021. Phone: (516) 248-5550; Fax: (516) 248-6027; Email: [atb@employmentlawyernewyork.com](mailto:atb@employmentlawyernewyork.com)

If you decide to join this case, you should not contact the defendants' lawyer directly yourself.

8. FURTHER INFORMATION

For further information about this Notice, the deadline for filing a Consent to Become Party Plaintiff, or any other questions concerning this lawsuit, contact Plaintiffs' counsel by telephone, e-mail or mail at the telephone number and addresses stated in Paragraph 7 above.

**THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE HONORABLE JUDGE ALISON J. NATHAN, UNITED STATES DISTRICT JUDGE OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK. THE COURT HAS NOT MADE ANY DECISION REGARDING THE MERITS OF THIS LAWSUIT AND EXPRESSES NO OPINION REGARDING ANY ALLEGATIONS SET FORTH HEREIN.**

Dated: New York, New York  
April 30, 2013



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Ayanna T. Blake, Esq.  
The Law Office of Borrelli &  
Associates, PLLC  
Attorneys for Plaintiff  
1010 Northern Boulevard, Suite 328  
Great Neck, New York 11021

**CONSENT TO SUE UNDER**  
**FEDERAL FAIR LABOR STANDARDS ACT**

I am an individual currently or formerly employed by S & D FRUITS & VEGETABLES INC., SAL'S FRUIT, VEGETABLE AND GROCERY INC., and SAMUEL OLEA, at some time within the last three (3) years. I consent to be a Plaintiff in *Florentino Melgadejo v. S & D FRUITS & VEGETABLES INC., SAL'S FRUIT, VEGETABLE AND GROCERY INC., and SAMUEL OLEA*, an action to collect unpaid wages. I agree that I am bound by the terms of the Retainer Agreement signed by the named Plaintiffs in this case.

Dated: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Mail this form by \_\_\_\_\_ to:

Clerk of the Court  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007